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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

WASHINGTON TOXICS COALITION,)
NORTHWEST COALITION FOR) Civ. No. C01-0132C
ALTERNATIVES TO PESTICIDES,)
PACIFIC COAST FEDERATION OF)
FISHERMEN'S ASSOCIATIONS, and) NOTICE OF FILING MATERIALS FOR
INSTITUTE FOR FISHERIES RESOURCES,) DECEMBER 9, 2003 STATUS
CONFERENCE

Plaintiffs,

v.

ENVIRONMENTAL PROTECTION
AGENCY, and CHRISTINE TODD
WHITMAN, ADMINISTRATOR,

Defendants,

AMERICAN CROP PROTECTION
ASSOCIATION, et al.,

Intervenor-Defendants.

Plaintiffs Washington Toxic Coalition et al. are filing the Declaration of Patti Goldman,
which attaches correspondence exchanged by the parties' attorneys during their attempts to

NOTICE OF FILING MATERIALS FOR
DECEMBER 9, 2003 STATUS CONFERENCE
(C01-0132C) - 1 -

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1 negotiate a form of injunction, as ordered by the Court. The correspondence demonstrates that
2 plaintiffs negotiated in good faith and made every effort to move the parties in the direction of an
3 agreed-upon order. If the Court intends to direct the parties to negotiate further, plaintiffs ask
4 that the Court appoint a mediator to foster a more productive negotiation process. Plaintiffs also
5 ask that the Court provide guidance on the following issues:

6 1. Does the Court intend to include all pesticide uses in the injunctive relief order,
7 including those undergoing informal consultation as a result of an Environmental Protection
8 Agency ("EPA") not likely to adversely affect determination? Note the parties agree that such
9 pesticide uses are excluded once the National Marine Fisheries Service ("NMFS") concurs in
10 such a determination.

11 2. With respect to additional urban restrictions, does the Court intend to have
12 educational material accompany or otherwise linked to products at the point of sale before
13 purchase and does the Court intend that the educational material convey cautionary information
14 about the particular pesticides, as opposed to general information about urban use of pesticides?

15 3. Does the Court intend to craft alternative buffers for particular pesticide uses in
16 reliance on scientific findings made in the context of compliance with Section 7 of the
17 Endangered Species Act as indicated in the Court's August 8, 2003 Order, as opposed to the
18 registrant's data or its disagreement with EPA re-registration determinations or effects
19 determinations? If the effects determination recommends and/or relies on a ground buffer larger
20 than 20 yards or an aerial buffer larger than 100 yards, does the Court intend to impose the larger
21 buffer recommended in the effects determination?

22 4. Does the Court intend that the buffers will apply to all streams that salmon use at
23 any time of the year, including estuaries but excluding irrigation ditches and canals? Does the
24

1 Court intend for the injunction to identify such streams by reference to databases?

2 5. Does the Court intend to exempt pesticide spraying programs authorized by
3 NMFS as opposed to programs reviewed by, but not approved, by NMFS?

4 6. Based on the parties' agreement to provide some exemption for noxious weed
5 programs, does the Court want such an exemption to contain safeguards that have been
6 prescribed by NMFS when it has consulted on and approved such programs?

7 7. Does the Court intend to include in the injunction mechanisms for EPA and the
8 defendant-intervenors' implementation of the injunction and reporting to assure the Court that
9 such implementation has occurred?

10 Respectfully submitted this 3rd day of December, 2003.

11
12
13 /s/ Patti Goldman
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23 *Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of Washington. I am over 18 years of age and not a party to this action. My business address is 705 Second Avenue, Suite 203, Seattle, Washington 98104.

On December 3, 2003, I served a true and correct copy of the following documents on the parties listed below:

1. Notice of Filing Materials for December 9, 2003 Status Conference; and
2. Declaration of Patti Goldman.

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5
6 I, Catherine Hamborg, declare under penalty of perjury that the foregoing is true and
7 correct.

8 Executed this 3rd day of December, 2003, at Seattle, Washington.

9
10 /s/ Catherine Hamborg

Catherine Hamborg